THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.20308 of 2005

Dated: 28-12-2005

Between:

D.Prabhu.

.. PETITIONER

AND

The Primary Agricultural Cooperative Society Limited and others.

.. RESPONDENTS

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ORDER:

The petitioner was employed as a Secretary in the first respondent society. He was placed under suspension, through orders, dated 24-02-2001, by the Society on certain allegations. The petitioner filed W.P.No.4786 of 2004, before this court, challenging the order of suspension. The writ petition was disposed of directing the respondents to pay the subsistence allowance. The petitioner states that he deposited a sum of Rs.44,185/- which was said to be the liability fixed against him in the surcharge proceedings initiated under Section 60(1) of the A.P.Co-operative Societies Act. The Managing Committee of the first respondent passed Resolution dated 24-04-2004 reinstating the petitioner. The grievance of the petitioner is that though the first respondent has decided to reinstate him into service, he has not been permitted to resume charge, and seeks appropriate directions in this regard.

This court ordered notice before admission on 15-09-2005. The notice has since

been served on the contesting respondents. The first respondent filed counter affidavit, denying the allegation of the petitioner. However, it is not disputed that the Managing Committee of the first respondent passed Resolution dated 24-04-2004, directing reinstatement of the petitioner. It is also contended that the petitioner himself did not turn up to join duty and submitted a letter dated 24-11-2005, representing that he did not join duty on account of ill-health.

Heard the learned counsel for the petitioner and the learned counsel for the first respondent.

The fact that the petitioner was directed to be reinstated through a Resolution of the Managing Committee dated 24-04-2004 is not in dispute. The controversy is as to whether it is the first respondent, which has prevented the petitioner from joining duty, or whether the lapse was on the part of the petitioner, in reporting to duty. A perusal of the letter, dated 24-11-2005, submitted by the petitioner discloses that he did not join duty on account of his ill-health. Though an effort is made by the petitioner to explain the circumstances under which the letter was issued, this court is not inclined to deal with the same. The very fact that the petitioner approached this court at a later stage, would disentitles him from claiming any benefits for the period, between the date of Resolution and the date of filing of the writ petition.

Whatever may have been the circumstances that resulted in denial of benefit of joining the service to the petitioner consequent on the Resolution of the Society dated 24-04-2004, the first respondent does not raise any serious objection, for joining of the petitioner into duty. In fact, they have to respect their own Resolution.

Having regard to the facts and circumstances of the case, the writ petition is disposed of, directing the first respondent to take the petitioner on duty with effect from 02-01-2006. In view of the letter dated 24-11-2005, it is observed that the petitioner shall not be entitled to any back wages. No order as to costs.

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28-12-2005

Prv